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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,750	10/11/2001	Michael Ferguson	8576-001-27	7168
54350	7590	11/10/2005	EXAMINER	
RATNERPRESTIA P.O. BOX 980 VALLEY FORGE, PA 19482-0980			NGUYEN, THUKHANH T	
			ART UNIT	PAPER NUMBER
			1722	
DATE MAILED: 11/10/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 09/973,750	<b>Applicant(s)</b> FERGUSON, MICHAEL	
	<b>Examiner</b> Thu Khanh T. Nguyen	<b>Art Unit</b> 1722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 1-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 10-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dausman et al (4,872,998) in view of Pearson (5,078,965).

Dausman et al teach an apparatus for forming pelletized fertilizer from sludge material, comprising a raw material ventilation system (Fig. 13-16) including a scrubber (14) for treating air by removing dust and odor produced from the material (cols. 3, line 59 to 65), a dryer (11) connected to the ventilation system (13-16) and a pelleting system (20) for producing pelletized material (col. 5, lines 21-39).

The apparatus further comprises a fully automated control means for starting up and shutting down different components (col. 3, lines 29-32). Therefore, it is inherent that the apparatus is capable of starting the ventilation process by the ventilation system (13-16) in the dryer (11) for removing some of the dust and the odor prior to starting the heat drying process by running heating fluid through a hollow hub (44) located within the dryer (11).

Dausman et al further disclose an odor control system (16) connected to the scrubber (14) and the fan (15), but fail to disclose a filter.

Pearson discloses an apparatus for treatment of waste material, comprising a hopper (1) containing the waste material, connected with a ventilation/filtration system having a fan (4)

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connected with a filter (5) for treating the gases from the hopper before exhausting into the atmosphere.

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Dausman et al by replacing the odor control system by a ventilation/filtration system connecting to a filter as taught by Pearson, because the filter will control the odor of the exhausted gas and would prevent the environment from being contaminated.

In regard to claims 11 and 12, the scrubber (14) is inherently producing moisture because it is a water jet scrubber (col. 5, lines 8-12), and is capable of reusing the moisture produced by the scrubber by recycling the moisture back to a treatment plan (col. 5, lines 10-12).

In regard to claims 13, Dausman et al disclose that the pelleting system comprises means, such as plurality of rollers (20a) or the CPM 7000 for pressing the find dry sludge material into pellets (col. 5, lines 25-30), wherein these pelletizers are capable of producing up to 10 tons per hour.

In regard to claim 14, Dausman et al disclose a finish area (21-22) for cooling and storing the pellets (col. 5, lines 31-39).

In regard to claim 15, the apparatus is capable of heating the material from 180F to 225F, in order for the water to be vaporized and heat dry the sludge material (col. 5, lines 3-5).

In regard to claim 16, the pelletizer is capable of forming the pellets of different sizes (col. 5, lines 33-35).

In regard to claim 17, the apparatus is capable of forming pellets that comprising organic matter and humus such as the sewage sludge (col. 1, lines 14-24).

Harrison disclose an apparatus for forming granules fertilizer, comprising a raw material ventilation system (20), which includes an induced-blower and gas scrubber (col. 7, lines 1-2) for exhausting feedstock at a feeding station (18) prior to drying the feedstock in the dryer (11) at about 150°F to 250°F.

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Dausman et al by providing an additional ventilation system at the feeding station prior to the dryer as taught by Harrison, in order to release gases or fume from the granulator before more gases are produced during the drying process.

Pearson discloses an apparatus for treatment of waste material, comprising a hopper (1) containing the waste material, connected with a ventilation/filtration system having a fan (4) connected with a filter (5) for treating the gases from the hopper before exhausting into the atmosphere.

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Dausman et al by replacing the odor control system by a ventilation/filtration system connecting to a filter as taught by Pearson, because the filter will control the odor of the exhausted gas and would prevent the environment from being contaminated.

In regard to claims 11 and 12, the scrubber (14) is inherently producing moisture because it is a water jet scrubber (col. 5, lines 8-12), and is capable of reusing the moisture produced by the scrubber by recycling the moisture back to a treatment plan (col. 5, lines 10-12).

In regard to claims 13, Dausman et al disclose that the pelleting system comprises means, such as plurality of rollers (20a) or the CPM 7000 for pressing the find dry sludge material into

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pellets (col. 5, lines 25-30), wherein these pelletizers are capable of producing up to 10 tons per hour.

In regard to claim 14, Dausman et al disclose a finish area (21-22) for cooling and storing the pellets (col. 5, lines 31-39).

In regard to claim 15, the apparatus is capable of heating the material from 180F to 225F, in order for the water to be vaporized and heat dry the sludge material (col. 5, lines 3-5).

In regard to claim 16, the pelletizer is capable of forming the pellets of different sizes (col. 5, lines 33-35).

In regard to claim 17, the apparatus is capable of forming pellets that comprising organic matter and humus such as the sewage sludge (col. 1, lines 14-24).

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 10-17 have been considered but are moot in view of the new ground(s) of rejection.

4. The applicant has alleged, "the litter gives off a noxious odor due to its high ammonia content. The dust and odor can be inhaled by workers at the plant, posing a health risk to those workers, Further, the ammonia that becomes airborne may rest on structural portions of the manufacturing plant, potentially reacting with the steel and other material that comprises the structural portions and wearing away the structural portions, reducing the lifetime of the plant building itself." (Remark, page 3). For these reasons, the applicant asserted that a ventilation system positioned prior to a dryer is necessary. This argument, however, is not persuasive. These reasons were not supported by the specification. Even if the reasonings are correct, they

***Response to Arguments***

3. Applicant's arguments with respect to claims 10-17 have been considered but are moot in view of the new ground(s) of rejection.

Dausman et al disclose a closed system for pelleting sewage sludge, comprising a ventilation system (13-16) that remove the dust and odor from the sludge material in a housing (38) of the dryer (11); wherein each components of the apparatus could start-up or shut-down automatically. However, the operations of each component are functional limitations and cannot be used to determine the patentability of the apparatus claims. Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than function. In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). "[A]pparatus claims cover what a device *is*, not what a device *does*." Hewlett- Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990). (Emphasis in original)

Pearson discloses a waste treatment apparatus, having a ventilation/filtration system connected with the hopper for controlling the exhausted gas to prevent the surrounding atmosphere from being contaminated, wherein the ventilation/filtration system includes a blower (4) connected to a filter (5).

It would have been obvious to one of ordinary skill in the art to modify Dausman et al by adding a filter as taught by Pearson in order to improve the air quality circulating around the system.

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4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Khanh T. Nguyen whose telephone number is 571-272-1136. The examiner can normally be reached on Monday- Friday, 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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would only motivated one of ordinary skill in the art to install a ventilation system in order to remove the gases produced by the litter, but not necessary to position it before the dryer.

5. Furthermore, Harrison (H980) discloses that it has been well known in the art to provide a ventilation system at the feeding station in order to exhaust gases and fume from the feedstock prior to drying the material in the dryer.

6. It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Dausman by providing an additional ventilation system at the feeding station as taught by Harrison in order to release gases from the material before more gases are produced during the drying process.

7. The applicant further asserted that in Dausman, the raw material must first inserted into a dryer before any other process can be performed. However, this does not seem to be the case because the material is dewatering in a dewatering press 6, then the material is mixed with other chemical in the temporary storage tank before feeding to the feeder 10, which is in direct contact with the dryer. The dryer is connected to a ventilation system, which is capable of venting gases produced from the material.

8. It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to operate the ventilation system during the feeding of the material from the feeder into the dryer before the drying process take place, so that the gas pressure will not build up in the dryer throughout the whole process. It would also have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Dausman by provide an additional ventilation system at the feeder 10, for the same purpose of releasing the gases from the material as taught by Harrison.

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9. Since this application is eligible for the transitional procedure of 37 CFR 1.129(a), and the fee set forth in 37 CFR 1.17(r) has been timely paid, the finality of the previous Office action is hereby withdrawn pursuant to 37 CFR 1.129(a). Applicant's first submission after final filed on October 24, 2005 has been entered.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Khanh T. Nguyen whose telephone number is 571-272-1136. The examiner can normally be reached on Monday- Friday, 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Dausman et al further disclose an odor control system (16) connected to the scrubber (14) and the fan (15), but fail to disclose that the ventilation system located prior to the dryer and has a filter.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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TN

DUANE SMITH  
PRIMARY EXAMINER

*D. S.*  
*11-8-05*